



REMARKS

REJECTION OF THE SPECIFICATION

In the Office Action dated December 15, 2004, the Examiner objected to the Abstract of the Disclosure. The Examiner stated,

The abstract of the disclosure is objected to because it states Applicant's invention is drawn to both a method and apparatus, whereas, Applicant's invention as claimed is only drawn to an apparatus.

The Examiner's objection to the Abstract of the Disclosure has been obviated by the present Amendment wherein the Abstract of the Disclosure has been modified to read:

"An apparatus for forming a decorative pleated cover about an outer peripheral surface of a flower pot. The apparatus includes a frame assembly, a platform adjustably connected to the frame assembly, a pleating assembly supported on the platform and a banding assembly also connected to the platform. The banding assembly is disposed about the pleating assembly and supports at least one band so that upon forming a decorative pleated cover about the flower pot with the pleating assembly, the decorative pleated cover so formed is secured about the flower pot with a band while the flower pot having the decorative pleated cover formed thereabout is supported within the pleating assembly."

From the review of the Abstract, as amended, it is clear that any reference to "a method" has been deleted. Therefore, it is respectfully requested that the Examiner withdraw his objection to the Abstract of the Disclosure as same applies to the amended Abstract of the Disclosure.

OBJECTION TO CLAIMS 5 AND 6

In the Office Action dated December 15, 2004, the Examiner objected to claims 5 and 6 as being dependent upon a rejected base claim. However, the Examiner stated that such claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

By the present Amendment, claim 5 has been written as newly added claim 11, and includes each and every limitation of original claim 1 and dependent claim 5. Therefore, it is respectfully submitted that newly added claim 11 fulfills each and every requirement set forth by the Examiner, and thus does not constitute new matter. Accordingly, such claim should be entered.

Claim 6 has been amended to depend from newly added claim 11. Thus, claim 6 (as amended) contains each and every limitation of newly added claim 11, as well as the recitation of the limitations set forth in claim 6.

In light of the above, it is respectfully submitted that claims 11 and 6 are now in condition for allowance and passage of same is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

In the Office Action dated December 15, 2004, the Examiner rejected claims 1-4 and 8 and 9 under 35 U.S.C. §102(b) as being anticipated by Straeter (USPN 5,921,060).

The Examiner stated:

"In reference to claims 1-4, 8 and 9, Straeter discloses an apparatus for forming and securing a decorative pleated cover (12) about an outer peripheral surface of a pot (14), the apparatus comprising: a frame assembly (40, 42); a platform (34) connected to the frame assembly (40, 42) such that the platform (34) extends outwardly from the frame assembly (40, 42); a pleating assembly (30, 32) supported on an upper surface of the platform (34) such that the pleating assembly (30, 32) extends upwardly from (sic) the upper surface of the platform (34), the pleating assembly (30, 32) comprising a lower body portion (32) and a plurality of spatially disposed pleat forming members (30; figure 3), the pleat forming members (30) disposed about the perimeter of the lower body portion (32) and extending in an upwardly direction therefrom, the pleat forming members (30) cooperating with the lower body portion (32) of the pleating assembly to define a pot receiving opening therein, the pot receiving opening sized and configured to receive (figures 1 & 2) at least a portion of a pot (14); and a banding assembly (28) connected to the platform (36) about the pleating assembly (30, 32), the banding assembly supporting at least one band (16) thereon."

The above stated rejection of claim 1 has been obviated in that claim 1 has been cancelled by the present Amendment, and as to claims 2-4, 8 and 9, it is respectfully traversed as applicable to the claims as amended herein.

Claims 2-4 have been amended to depend either directly or indirectly from newly added claim 11. Accordingly, each of such claims contain, in addition to the limitations set forth therein, each and every limitation of newly added independent claim 11, a claim indicated allowable by the Examiner.

Therefore, it is respectfully requested that the Examiner withdraw the rejection of claims 2-4 (as amended) under 35 U.S.C. § 102(b) and pass such claims to issue.

Claim 8, and thus claim 9 which depends therefrom, have likewise been amended to more clearly set forth the inventive concept of the present invention and to include limitations which the Examiner indicated in the Office Action provided a basis for allowance of objected to claims 5 and 6. That is, claim 8, and thus claim 9 which depends therefrom, has been amended to recite an apparatus for forming a decorative pleated cover which includes a frame assembly having a base and an upright member; a platform connected to the frame assembly; and a pleating assembly supported on the platform wherein the platform is adjustably connected to the upright member of the frame assembly such that the distance between the platform and the base of the frame assembly can be varied.

As stated by the Examiner, the prior art of record, while purportedly disclosing apparatuses having a pleating assembly and a frame assembly connected to an adjustable platform, does not disclose that the adjustable platform supports the pleating assembly as recited in Applicant's claims. Therefore, it is respectfully submitted that claims 8 and 9, as amended, are distinguishable from the art of record based upon the Examiner's statements

for reasons for the indication of allowability of the subject matter of claims 5 and 6. Accordingly, it is respectfully requested that the Examiner withdraw his rejection to claims 8 and 9, as amended, under 35 U.S.C. § 102(b) and pass such claims to issue.

REJECTIONS UNDER 35 U.S.C. §103

In the Office Action dated December 15, 2004, the Examiner rejected Applicant's claims 7 and 10 under 35 U.S.C. §103(a), stating that such claims are unpatentable over Straeter (USPN 5,921,060) in view of Weder et al. (USPN 5,073,161). In support of the rejection, the Examiner stated,

"Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Straeter (USPN 5,921,060) in view of Weder et al. (USPN 5,073,161).

Regarding claims 7 and 10, Straeter discloses a pleating assembly (30, 32) comprising a lower body portion (32) and a plurality of spatially disposed pleat forming members (30; figure 3), but does not disclose the use of scalloped shaped portions. Weder et al. teaches an apparatus for forming a decorative pleated cover comprising a pleating assembly having pleat forming members (86) and scalloped shaped portions (110) cooperating in the formation of pleats in a decorative cover. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the pleating assembly of Straeter to include the scalloped portion of Weder for the purpose of providing additional forming means in the pleating assembly."

The above stated rejection of the Examiner is obviated in part and respectfully traversed in part. That is, claim 7 has been cancelled and claim 10 has been amended to depend from amended claim 8. Thus, for the reasons set forth above, it is respectfully submitted that claim 10, which depends via claim 9 from claim 8, as amended, contains each and every limitation of claims 8 and 9, as well as the additional limitations set forth in claim 10. Therefore, it is respectfully submitted that claim 10 is patentable over the art of record and is in condition for allowance. Accordingly, it is respectfully requested that the Examiner withdraw his rejection to claim 10 and pass same to issue.

ALLOWABLE SUBJECT MATTER

In the Office Action dated December 15, 2004, the Examiner objected to claims 5-6 as being dependent upon a rejected base claim. In support of the objection, the Examiner stated,

“Claims 5-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.”

The indication of allowability of claims 5 and 6 is noted with appreciation. Claim 5 has been cancelled and rewritten as newly added claim 11. As such, claim 5 contains each and every limitation of claim 1 as originally submitted as well as the additional limitations in claim 5. Accordingly, it is respectfully submitted that claim 11 is in condition for allowance.

Claim 6 has been amended to depend from newly added claim 11 and to further state that the platform has an opening extending therethrough. Thus, claim 6 (as amended) contains each and every limitation of newly added claim 11 as well as the limitations set forth in claim 6.

In light of the above, it is respectfully submitted that newly added claim 11 and claim 6, which depends therefrom, are in condition for allowance and are patentable over the art of record. Therefore, it is respectfully requested that the Examiner withdraw his objection as applicable to newly added claim 11 and amended claim 6, and pass such claims to issue.

SUBMISSION OF INFORMATION DISCLOSURE STATEMENT

Patents found during the search phase of PCT application PCT/US04/23679, which corresponds to the subject application and additional references believed to be pertinent to the subject application, are herewith submitted in an Information Disclosure Statement. Applicant believes that the art submitted in the Information Disclosure Statement is no more pertinent than that cited by the Examiner in the Office Action dated December 15, 2004.

CONCLUSION

It is respectfully submitted that the claims are now in condition for allowance and it is requested that the Examiner withdraw each and every rejection to the claims now pending in the application and pass such claims to issue.

The foregoing is intended to be a complete response to the Office Action dated December 15, 2004. Should the Examiner have any questions regarding the contents of this response, or any other matter, the undersigned would welcome a telephonic interview with the Examiner to discuss such matters.

Respectfully submitted,



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